THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.25151 OF 1998

DATED: 21st MARCH, 2007.

Between :

The Nagari Co-op. House Building Society Ltd.,
(S-137) rep. by its President N.R. Natarajan,
S/o. N. Ratna Mudali, aged about 71 years,
R/o. Nagari, Nagari Mandal, Chittoor District. .. Petitioner

And

1. The Govt. of A.P., rep. by its Secretary,
   Revenue (Q) Dept., Secretariat, Hyderabad.,
   And others. .. Respondents

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ORDER :

The petitioner is a Co-operative House Building Society registered under the A.P. Co-operative Societies Act, 1964. It is not in dispute that the 2nd respondent – Commissioner of Land Revenue vide proceedings dated 8-2-1982, in exercise of powers vested under G.O.Ms.No.1705, Revenue (Q) Department, dated 30-12-1975, directed assignment of Ac.2-84 cents of land situated in Sy.No.91/6 of Nagari Village and Mandal, Chittoor District in favour of the petitioner society on payment of market value at Rs.2,500/- per acre for the purpose of providing house sites to its members. Pursuant thereto, the possession of the said Ac.2-84 cents was handed over to the petitioner society by the then Tahsildar, Nagari on 16-4-1982. While so, on a representation made by one A. Meganadhan, the 1st respondent – Government of A.P. passed an order dated 10-6-1982 staying the operation of the order of the 2nd respondent dated 8-2-1982. The said proceedings were contested by the petitioner society and after hearing both the parties the 1st respondent having called for a report from the District Collector, Chittoor, vacated the interim stay by order dated 18-7-1996. Thereafter, the petitioner society sought for sanction of the lay out from the concerned Gram Panchayat. As per the layout, 50 plots were made and out of the same 44 plots were registered in favour of the respective allottees. At that stage, the petitioner society was served with the impugned notice dated 26-8-

1998 issued by the 4th respondent – Mandal Revenue Officer, Nagari calling upon the petitioner society to hand over the possession of the land in question within 15 days on the ground that the 2nd respondent by order dated 27-6-1998 ordered resumption of the assigned land on account of its failure to develop the land within the time stipulated.

Aggrieved by the same, this writ petition is filed contending inter alia that the order of the 2nd respondent dated 27-6-1998 directing resumption of the land alienated to the petitioner society was passed without notice to the petitioner society and without conducting any enquiry into the allegation that the society failed to develop the land in question. It is contended that as a matter of fact soon after the stay granted by the 1st respondent was vacated on 18-7-1996 the land was made into plots and 44 out of 50 plots were registered in favour of the allottees. It is contended that the order dated 27-6-1998 which was passed behind the back of the petitioner society is not only arbitrary, illegal but also violative of the fundamental principles of natural justice.

In the counter-affidavit filed on behalf of the respondents, the fact that the land in question was alienated in favour of the petitioner society on payment of market value fixed at Rs.2,500/- per acre in terms of G.O.Ms.No.1705, dated 30-12-1975 has not been disputed. The fact that the 1st respondent vide order dated 18-7-1996 negatived the claim made by one Meghanadhan is also not in dispute. However, it is stated that subsequently one K.N. Mohan and some others of Gandla Street, Nagari Mandal filed a petition before the Collector requesting to suspend the operation of the alienation made in favour of the petitioner society and the same was referred to the Revenue Divisional Officer, Chittoor calling for a report. The Revenue Divisional Officer, Chittoor having inspected the land on 24-3-1997 submitted a report stating that the land in question is part and parcel of Nagari town and since the land value is about Rs.10 lakhs per acre at present, it is not desirable to alienate the same to the members of

House Building Society who are well-to-do persons. It was also observed in the report that the said kunta poramboke land is required for communal purpose. On the basis of the said report, the 2nd respondent vide proceedings dated 27-6-1998 directed the Mandal Revenue Officer to resume the land to the extent it is not developed. Pursuant thereto, the impugned notice dated 26-8-1998 was rightly issued by the Mandal Revenue Officer.

I have heard the learned Counsel for both the parties.

Whereas the learned Counsel for the petitioner contended that since the order passed by the 1st respondent dated 18-7-1996 has become final, it is not open to the respondents to reopen the issue and take steps for resumption of the land in question, the learned Government Pleader appearing for the respondents contended that as per the conditions of alienation, the Government may order resumption of the land wholly or any part if in the opinion of the Government the land is required for public purpose.

Nothing has been placed before this Court to show that the petitioner has failed to comply with any of the conditions of the order of alienation dated 23-7-1982. As a matter of fact, the specific case of the petitioners is that as per the lay out sanctioned by the Gram Panchayat the land in question has already been made into plots and most of the plots were registered in the names of the respective allottees.

At any rate, the impugned order of resumption was passed primarily on the ground that the land in question is required for a public purpose. Even in the counter-affidavit filed on behalf of the respondents, the same reason has been reiterated.

As held by this Court in L*AO-CUM-RDO, CHEVELLA DIVISION, DOMALGUDA, HYD. vs. M. PANDU*[1] even in the case of the assigned land, in case it is required for any public purpose, the assignees are entitled to compensation equivalent to full market value

of the land and other benefits on par with the land owners and it is obligatory on the part of the respondents to take appropriate steps for acquisition of the land following due process of law.

The same principle would attract to the case on hand, since the land was alienated in favour of the petitioner society on receiving the cost of the land fixed on the basis of the market value. In the circumstances, the order of the 2nd respondent directing resumption of the land dated 27-6-1998 as well as the consequential notice dated 26-8-1998 issued by the 4th respondent are illegal and the same are hereby set aside.

The Writ petition is accordingly allowed. No costs.

G. ROHINI, J.

Dt. 21-3-2007
gbs

[1] 2004 (2) ALD 451 (LB)